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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,001	07/13/2005	Andreas Kummer	101215-215	9479
27387 7590 07/14/2008 NORRIS, MCLAUGHLIN & MARCUS, P.A. 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022				
EXAMINER				
LANGEL, WAYNE A				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
07/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/521,001

**Applicant(s)**

KUMMER, ANDREAS

**Examiner**

Wayne Langel

**Art Unit**

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF 298)  
Paper No(s)/Mail Date 1-7-05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-41, 43, 45-47 and 49 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either Ghelfi or FR 2444015. No distinction is seen between the fertilizer recited in claims 22-41, 43, 45-47 and 49, and that disclosed by either Ghelfi or FR 2444015. Ghelfi discloses at col. 1, lines 45-53 that the manure pulp is granulated without modification of the original pulp structure. Accordingly it is clear that the manure would be processed in the process of Ghelfi "within a certain time frame which covers preservation of a natural humidity and loose structure of the horse droppings as much as possible". Ghelfi discloses at col. 1, lines 7-12 that the manure may be from horses. FR 2444015 discloses that fresh horse manure is homogenized and crumbled before being fed into a rotary dryer supplied with hot air, and the dried product is cycloned, hammer-milled and delivered to a granulator. The horse manure in the process of FR 2444015 would be processed "within a certain time frame which covers preservation of a natural humidity

and loose structure of the horse droppings as much as possible”, since the reference discloses that the manure is “fresh”.

Claims 42, 44, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghelfi or FR 2444015 as applied to claims 22-41, 43, 45-47 and 49 above, and further in view of Kobayashi et al. It would be further obvious from col. 1, lines 15-30 of Kobayashi et al to add a microorganism to the horse manure of either Ghelfi or FR 2444015.

Claims 1-5 and 10-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either Ghelfi or FR 2444015. No distinction is seen between the process recited in claims 1-5 and 10-20, and that disclosed by either Ghelfi or FR 2444015. Ghelfi discloses at col. 1, lines 45-53 that the manure pulp is granulated without modification of the original pulp structure. Accordingly it is clear that the manure would be processed in the process of Ghelfi “within a certain time frame which covers preservation of a natural humidity and loose structure of the horse droppings as much as possible”. Ghelfi discloses at col. 1, lines 7-12 that the manure may be from horses. FR 2444015 discloses that fresh horse manure is homogenized and crumbled before being fed into a rotary dryer supplied with hot air, and the dried product is cycloned, hammer-milled and delivered to a granulator. The horse manure in the process of FR 2444015 would be processed “within a certain time frame which covers preservation of a natural humidity and loose structure of the horse droppings as much as possible”, since the reference discloses that the manure is “fresh”.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Ghelfi or FR 2444015. Ghelfi and FR 2444015 are relied upon as discussed hereinbefore. It would be obvious to crush the horse manure in the process of either Ghelfi or FR 2444015 in any suitable manner, such as by having chickens walk on it.

Claims 21 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Ghelfi or FR 2444015 as applied to claim 1 above, and further in view of Kobayashi et al. It would be further obvious from col. 1, lines 15-30 of Kobayashi et al to add a microorganism to the horse manure of either Ghelfi or FR 2444015.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-42 and 48-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is indefinite as to what would constitute "a certain time frame which covers preservation of a natural humidity and loose structure of the horse droppings as much as possible". Also, terms such as "weather impacts like temperature, humidity and sun irradiation" render the scope of the claims vague and indefinite. In claims 48-51, "at least one of...and" is improper Markush terminology.

Inoue, Bodenrader, Imhof, Burton, FR 2166271 and EP 291652 are made of record for disclosing methods for treating manure.

Kramer is made of record for disclosing a method for separating straw and manure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Langel whose telephone number is 571-272-1353. The examiner can normally be reached on Monday through Friday, 8 am - 3:30 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wayne Langel/  
Primary Examiner, Art Unit 1793

